

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case

07-CA-279644

Date Filed

7-8-2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Ups		b. Tel. No. (800) 742-5877
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 1400 E Whitcomb Ave MI Madison Heights 48071	e. Employer Representative	
	g. e-Mail	
	h. Number of workers employed 200	
i. Type of Establishment (factory, mine, wholesaler, etc.) Others	j. Identify principal product or service Package delivery	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 5 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Matthew Scott Herrmann

Title:

4a. Address (Street and number, city, state, and ZIP code)25575 Briar Dr
MI Oak Park 48237**4b. Tel. No.**

(773) 559-4147

4c. Cell No.**4d. Fax No.****4e. e-Mail**

matruto777@gmail.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Matthew Scott Herrmann

Title:

(Print/type name and title or office, if any)

Tel. No.

(773) 559-4147

Office, if any, Cell No.**Fax No.****e-Mail**

matruto777@gmail.com

25575 Briar Dr
Address Oak Park MI 4823707/08/2021 02:58:22 PM
(date)**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)****PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Basis of the Charge

8(a)(5)

Within the previous six months, the Employer failed and refused to bargain in good faith with the union as the collective bargaining representative of its employees by making unilateral changes in terms and conditions of employment.

List Changes	Approximate date of change
New hires are making more	05/01/2021



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 7

Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, MI 48226

Agency Website: www.nlr.gov
Telephone: (313)226-3200
Fax: (313)226-2090



Download
NLRB
Mobile App

July 9, 2021

Mr. Matthew Scott Herrmann
25575 Briar Drive
Oak Park, MI 48237

Re: United Parcel Service
Case 07-CA-279644

Dear Mr. Herrmann:

The charge that you filed in this case on July 08, 2021 has been docketed as case number 07-CA-279644. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Robert Drzyzga whose telephone number is (313)335-8052. If this Board agent is not available, you may contact Supervisory Field Attorney Andrew M. MacEachern whose telephone number is (313)335-8032.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody

or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability.

Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Terry Morgan". The signature is written in a cursive style with a large, sweeping initial "T" and a long, horizontal flourish at the end.

Terry Morgan
Regional Director



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 7

Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, MI 48226

Agency Website: www.nlrb.gov
Telephone: (313)226-3200
Fax: (313)226-2090



Download
NLRB
Mobile App

July 9, 2021

United Parcel Service
1400 East Whitcomb Avenue
Madison Heights, MI 48071

Re: United Parcel Service
Case 07-CA-279644

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Robert Drzyzga whose telephone number is (313)335-8052. If this Board agent is not available, you may contact Supervisory Field Attorney Andrew M. MacEachern whose telephone number is (313)335-8032.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Terry Morgan". The signature is fluid and cursive, with the first and last names being clearly legible.

Terry Morgan
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

Copy of charge only sent to:

Ms. Shannon Baisden, Paralegal
United Parcel Service
55 Glenlake Parkway, NE
Atlanta, GA 30328

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

MATTHEW SCOTT HERMANN

And

UNITED PARCEL SERVICE, INC.

CASE NO. 07-CA-279644

TO: (Check one Box Only)1/

- ☒ REGIONAL DIRECTOR
 NLRB, REGION 25
 219 SOUTH DEARBORN STREET
 SUITE 808
 CHICAGO, IL 60604-2027
- ☐ EXECUTIVE SECRETARY
 NATIONAL LABOR RELATIONS BOARD
 WASHINGTON, D.C. 20570
- ☐ GENERAL COUNSEL
 NATIONAL LABOR RELATIONS BOARD
 WASHINGTON, D.C. 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

the Employer, United Parcel Service, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

- ☒ REPRESENTATIVE IS AN ATTORNEY
- ☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SECTIONS 102.14 AND 102.113 OF THE BOARD'S RULES AND REGULATIONS.

(REPRESENTATIVE INFORMATION)

NAME: John A. Klages, Esq. (Quarles & Brady LLP)

MAILING ADDRESS: 300 North LaSalle Street, Suite 4000
Chicago, IL 60654

E-MAIL ADDRESS: John.Klages@quarles.com

OFFICE TELEPHONE NUMBER: (312) 715-5060

CELL PHONE NUMBER: FAX: (312) 715-5155

SIGNATURE

(Please sign in ink)

DATE: July 13, 2021

1/ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

MATTHEW SCOTT HERMANN

And

UNITED PARCEL SERVICE, INC.

CASE NO. 07-CA-279644

TO: (Check one Box Only) 1/

☒ REGIONAL DIRECTOR
NLRB, REGION 25
219 SOUTH DEARBORN STREET
SUITE 808
CHICAGO, IL 60604-2027

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C. 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C. 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

the Employer, United Parcel Service, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SECTIONS 102.14 AND 102.113 OF THE BOARD'S RULES AND REGULATIONS.

(REPRESENTATIVE INFORMATION)

NAME: Reema Kapur, Esq. (Quarles & Brady LLP)

MAILING ADDRESS: 300 North LaSalle Street, Suite 4000
Chicago, IL 60654

E-MAIL ADDRESS: Reema.Kapur@quarles.com

OFFICE TELEPHONE NUMBER: (312) 715-5288

CELL PHONE NUMBER: FAX: (312) 715-5155

SIGNATURE

(Please sign in ink)

DATE: July 13, 2021

1/
IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Matthew Herrmann

and

United Parcel Service, Inc.

CASE 07-CA-279644

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

United Parcel Service, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Tony C. Coleman
MAILING ADDRESS: 101 S. Fifth Street, Suite 2500, Louisville, KY 40202
E-MAIL ADDRESS: tony.coleman@ups.com
OFFICE TELEPHONE NUMBER: 502.540.2367
CELL PHONE NUMBER: 502.727.3174 FAX: 502.540.2529
SIGNATURE: Tony C. Coleman
(Please sign in ink.)
DATE: December 16, 2021

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

United Parcel Service, Inc.
and
Individual

CASE 07-CA-279644

United Parcel Service, Inc.

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Local 243, International Brotherhood of Teamsters


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Scott D. Soldon	
MAILING ADDRESS: 3934 N. Harcourt	
Shorewood WI	
E-MAIL ADDRESS: scott@soldonmccoy.com	
OFFICE TELEPHONE NUMBER: 4148702177	
CELL PHONE NUMBER:	FAX:
SIGNATURE: 	
DATE: Tuesday, December 21, 2021 12:46 PM Eastern Standard Time	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY. A COPY SHOULD BE SENT TO THE REGIONAL COUNSEL OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

United Parcel Service, Inc.
and
Individual

CASE 07-CA-279644

United Parcel Service, Inc.

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Local 243

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Kyle A. McCoy	
MAILING ADDRESS: 5502 Upland Trail	
Middleton WI	
E-MAIL ADDRESS: kyle@soldonmccoy.com	
OFFICE TELEPHONE NUMBER:	2532240181
CELL PHONE NUMBER:	6082035708
FAX:	
SIGNATURE: <i>KM</i>	
DATE: Tuesday, December 21, 2021 2:31 PM Eastern Standard Time	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY. A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SEVEN**

UNITED PARCEL SERVICE, INC.

Respondent

and

Case 07-CA-279644

MATTHEW SCOTT HERRMANN, an Individual

Charging Party

and

**LOCAL 243, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS (IBT)**

Party in Interest

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by the Charging Party, an individual. It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Respondent has violated the Act as described below.

1. The charge in Case 07-CA-279644 was filed by the Charging Party on July 8, 2021, and a copy was served on Respondent by U.S. mail on July 9, 2021.

2. At all material times, Respondent has been an Ohio corporation with facilities and places of business throughout the United States, including a facility located in Madison Heights, Michigan, and has been engaged in the interstate and intrastate transportation of freight.

3. In conducting its operations during the calendar year ending December 31, 2020, Respondent derived gross revenues in excess of \$50,000 for the transportation of freight from the State of Michigan directly to points outside the State of Michigan.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, the Party in Interest has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Brian Shulen
Art Dart
Nick Hood

Madison Heights Facility Manager
Madison Heights Facility Supervisor
Madison Heights Facility Supervisor

7. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Feeder drivers, package drivers, sorters, loaders, unloaders, porters, office clerical, clerks, customer counter clerks, mechanics, maintenance personnel (building maintenance), car washers, United Parcel Service employees in the Employer's air operation, and to the extent allowed by law, employees in the export and import operations performing load and unload duties, and other employees of the Employer for whom a signatory Local Union is or may become the bargaining representative. Employees of CSI and UPS Latin America, Inc. are also covered by this Agreement as specified in the P&D Supplement and the Challenge Air Cargo Supplement, respectively.

In addition, effective August 1, 1987, the Employer recognized as bargaining unit members clerks who are assigned to package center operations, hub center operations, and/or air hub operations whose assignment involves the handling and progressing of merchandise, after it has been tendered to United Parcel Service to effectuate delivery. These jobs cover: package return clerks, bad address clerks, post card room clerks, damage clerks, rewrap clerks, and hub and air hub return clerks. This Agreement also governs the classifications covered in Article 39—Trailer Repair Shop. Effective no later than February 1, 2003 the Employer recognizes as bargaining unit members FDC/ODC clerks, international auditors, "smart label" clerks and revenue auditors who work in the operations facilities.

(b) At all material times, Respondent has recognized the Party in Interest as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements at the national, regional and local levels, all of which are effective from August 1, 2018 to July 31, 2023.

(c) At all material times, based on Section 9(a) of the Act, the Party in Interest has been the exclusive collective-bargaining representative of the Unit.

8. (a) About May 2021, Respondent, at its Chicago, Illinois facility, began paying employees in the same Unit classification as the Charging Party a higher wage rate than the Charging Party's hourly wage rate.

(b) About May 19, 2021, Respondent, at its Minneapolis, Minnesota facility, began paying employees in the same Unit classification as the Charging Party a higher wage rate than the Charging Party's hourly wage rate.

(c) About June 9, 2021, Respondent, at its Maumee/Toledo, Ohio facility, began offering newly hired employees in the same Unit classification as the Charging Party a higher wage rate than the Charging Party's hourly wage rate.

(d) About June 9, 2021, Respondent, at its Madison Heights facility, began paying newly hired employees, in the same loader/unloader Unit classification as the Charging Party, a higher incentive-based attendance bonus wage rate than the Charging Party's hourly wage rate.

(e) The subjects set forth above in paragraphs 8(a) through 8(d) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(f) Respondent engaged in the conduct described above in paragraphs 8(a) through 8(d) without prior notice to the Party in Interest, and without affording the Party in Interest a meaningful opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

(g) As a result of Respondent's conduct described above in paragraphs 8(a) through 8(d) and 8(f) on or about May 19, and June 9, 2021, Respondent adversely affected the wages of its Unit employees.

(h) By the conduct described above in paragraphs 8(a) through 8(d) and 8(f), Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

9. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, it is prayed that Respondent be ordered to:

1. Cease and desist from

(a) engaging in the conduct described in paragraphs 8(a) through 8(d), and 8(f) and 8(g), or in any like or related manner, failing and refusing to bargain collectively and in good faith with the Party in Interest as the exclusive collective-bargaining representative of the Unit.

(b) engaging in the conduct described in paragraphs 8(a) through 8(d), and 8(f) and 8(g), or in any like or related manner interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action:

(a) Upon request, bargain collectively and in good faith with the Party in Interest as the exclusive collective-bargaining representative of the Unit in regard to wages, hours, and other terms and conditions of employment.

(b) Make affected unit employees at the Madison Heights facility whole for loss of wages suffered as the result of the unilateral change regarding loader/unloader Unit classification employee wage rates, with interest in accordance with Board policy.

(c) Post appropriate notices in Respondent's Madison Heights facility.

The General Counsel further prays for such other relief as may be just and proper to remedy the unfair labor practices herein alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **Tuesday, December 21, 2021, or postmarked on or before December 20, 2021.** Respondent must also serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **Wednesday, February 9, 2022, 10:00 a.m. at Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 05-200, Detroit, Michigan**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. The hearing will be conducted via videoconferencing using the Zoom for Government platform, or by such other means and method as directed by the Administrative Law Judge. At the hearing, Respondent and any other party to this

proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: December 7, 2021

A handwritten signature in black ink that reads "Elizabeth Kerwin". The signature is written in a cursive style with a large, sweeping loop at the end.

Elizabeth Kerwin, Regional Director
National Labor Relations Board, Region Seven
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, MI 48226

Attachments

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SEVEN

In the Matter of

UNITED PARCEL SERVICE, INC.

Respondent

and

Case No. 07-CA-279644

MATTHEW SCOTT HERRMANN, an
individual

Charging Party

and

LOCAL 243, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS (IBT)

Party in Interest

**UNITED PARCEL SERVICE, INC.'S
ANSWER TO COMPLAINT**

United Parcel Service, Inc. ("UPS" or "Respondent"), by its attorneys, answers the Complaint as follows:

1. The charge in Case 07-CA-279644 was filed by the Charging Party on July 8, 2021, and a copy was served on Respondent by U.S. mail on July 9, 2021.

ANSWER: UPS admits the allegations in Paragraph 1, but denies that the charge has any merit.

2. At all material times, Respondent has been an Ohio corporation with facilities and places of business throughout the United States, including a facility located in Madison Heights, Michigan, and has been engaged in the interstate and intrastate transportation of freight.

ANSWER: UPS admits the allegations in paragraph 2.

3. In conducting its operations during the calendar year ending December 31, 2020, Respondent derived gross revenues in excess of \$50,000 for the transportation of freight from the State of Michigan directly to points outside the State of Michigan.

ANSWER: UPS admits the allegations in Paragraph 3.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

ANSWER: UPS admits the allegations in Paragraph 4.

5. At all material times, the Party in Interest has been a labor organization within the meaning of Section 2(5) of the Act.

ANSWER: UPS admits that the identified Party in Interest is a labor organization within the meaning of Section 2(5) of the Act but denies that it is the only Party in Interest.

6. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 1(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Brian Shulen	Madison Heights Facility Manager
Art Dart	Madison Heights Facility Supervisor
Nick Hood	Madison Heights Facility Supervisor

ANSWER: UPS admits that Brian Shulen, Art Dart, and Nick Hood are supervisors of UPS within the meaning of Section 2(11) of the Act and agents of UPS within the meaning of Section 2(13) of the Act, but denies the remaining allegations in Paragraph 6. Further answering, the correct titles of the individuals referenced in Paragraph 6 are:

Brian Shulen	Madison Heights Full-time Hub Supervisor
Art Dart	Madison Heights Full-time Hub Supervisor
Nick Hood	Madison Heights Part-time Hub Supervisor

7. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Feeder drivers, package drivers, sorters, loaders, unloaders, porters, office clerical, clerks, customer counter clerks, mechanics, maintenance personnel (building maintenance), car washers, United Parcel Service employees in the Employer's air operation, and to the extent allowed by law, employees in the export and import operations performing load and unload duties, and other employees of the Employer for whom a signatory Local Union is or may become the bargaining representative. Employees of CSI and UPS Latin America, Inc. are also covered by this Agreement as specified in the P&D Supplement and the Challenge Air Cargo Supplement, respectively.

In addition, effective August 1, 1987, the Employer recognized as bargaining unit members clerks who are assigned to package center operations, hub center operations, and/or air hub operations whose assignment involves the handling and progressing of merchandise, after it has been tendered to United Parcel Service to effectuate delivery. These jobs cover: package return clerks, bad address clerks, post card room clerks, damage clerks, rewrap clerks, and hub and air hub return clerks. This Agreement also governs the classifications covered in Article 39—Trailer Repair Shop. Effective no later than February 1, 2003 the Employer recognizes as bargaining unit members FDC/ODC clerks, international auditors, "smart label" clerks and revenue auditors who work in the operations facilities.

ANSWER: UPS admits the definition of the Unit constitutes a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act as it pertains to Charging Party and other bargaining unit employees covered by the NMA, but denies that UPS's Chicago, Illinois employees are within the described Unit.

(b) At all material times, Respondent has recognized the Party in Interest as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements at the national, regional and local levels, all of which are effective from August 1, 2018 to July 31, 2023.

ANSWER: UPS admits that Teamster Local 243 is a collective bargaining representative representing Charging Party, but denies the remaining allegations to Paragraph 7(b) including that Local 243 is the exclusive collective bargaining representative of the Unit. Further answering, the Teamsters United Parcel Service National Negotiating Committee (TUPSNNC) representing various Local Unions affiliated with the International Brotherhood of Teamsters including Local 243, is the collective-bargaining representative of the Unit.

(c) At all material times, based on Section 9(a) of the Act, the Party in Interest has been the exclusive collective-bargaining representative of the Unit.

ANSWER: UPS denies that Teamsters Local 243 is the exclusive collective-bargaining representative of the Unit. Further answering, the TUPSNNC representing various Local Unions affiliated with the International Brotherhood of Teamsters including Local 243, is the collective-bargaining representative of the Unit.

8. (a) About May 2021, Respondent, at its Chicago, Illinois facility, began paying employees in the same Unit classification as the Charging Party a higher wage rate than the Charging Party's hourly wage rate.

ANSWER: UPS denies the allegations in Paragraph 8. Further answering, Chicago employees are not in the same Unit classification as Charging Party, not covered by the same collective bargaining agreement as Charging Party, and not represented by Teamsters Local 243 or the TUPSNNC.

(b) About May 19, 2021, Respondent, at its Minneapolis, Minnesota facility, began paying employees in the same Unit classification as the Charging Party a higher wage rate than the Charging Party's hourly wage rate.

ANSWER: UPS admits that there were employees at its Minneapolis, Minnesota facility in the same Unit classification as Charging Party that were paid a higher wage rate than Charging Party. UPS denies that Local 243 represents these employees. Further answering, differentials in pay rates could occur for a number of reasons including longevity, differences in local agreements and the terms of any applicable Market Rate Adjustment (MRA).

(c) About June 9, 2021, Respondent, at its Maumee/Toledo, Ohio facility, began offering newly hired employees in the same Unit classification as the Charging Party a higher wage rate than the Charging Party's hourly wage rate.

ANSWER: UPS admits that there were employees at its Maumee/Toledo facility in the same Unit classification as Charging Party that were paid a higher wage rate than Charging Party. UPS denies that Local 243 represents these employees. Further answering, differentials in pay rates could occur for a number of reasons including longevity, differences in local agreements and the terms of any applicable Market Rate Adjustment (MRA). Further answering, UPS states that there were newly hired employees in the same Unit classification as the Charging Party at its Maumee/Toledo facility who may not have earned a higher wage rate than Charging Party if they did not satisfy the MRA attendance requirements in any week.

(d) About June 9, 2021, Respondent, at its Madison Heights facility, began paying newly hired employees, in the same loader/unloader Unit classification as the Charging Party, a higher incentive-based attendance bonus wage rate than the Charging Party's hourly wage rate.

ANSWER: UPS admits that there were employees at its Madison Heights facility in the same Unit classification as Charging Party that were paid a higher wage rate than Charging Party because the NMA expressly recognizes that wage rates and increases are

minimums allowing UPS to issue MRAs in order to be able to sufficiently staff its workforce in particular geographic areas. Further answering, UPS states that there were newly hired employees in the same Unit classification as the Charging Party at its Madison Heights facility who may not have earned a higher wage rate than Charging Party if they did not satisfy the MRA attendance requirements in any week.

(e) The subjects set forth above in paragraphs 8(a) through 8(d) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

ANSWER: UPS denies the allegations of Paragraph 8(e). Further answering, the alleged changes in the wage rates and increases the subject of the Complaint were already bargained and the NMA contains contractual language that covers the change in dispute.

(f) Respondent engaged in the conduct described above in paragraphs 8(a) through 8(d) without prior notice to the Party in Interest, and without affording the Party in Interest a meaningful opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

ANSWER: UPS denies the allegations of Paragraph 8(f).

(g) As a result of Respondent's conduct described above in paragraphs 8(a) through 8(d) and on or about May 19, and June 9, 2021, Respondent adversely affected the wages of its Unit employees.

ANSWER: UPS denies the allegations of Paragraph 8(g).

(h) By the conduct described above in paragraphs 8(a) through 8(d) and 8(0, [sic] Respondent has been failing and refusing to bargain collectively and in good faith

with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

ANSWER: UPS denies the allegations of Paragraph 8(h).

9. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER: UPS denies the allegations in Paragraph 9 as well as any other allegation of the Complaint that has not been specifically admitted.

WHEREFORE, it is prayed that Respondent be ordered to:

1. Cease and desist from

(a) engaging in the conduct described in paragraphs 8(a) through 8(d), and 8(f) and 8(g), or in any like or related manner, failing and refusing to bargain collectively and in good faith with the Party in Interest as the exclusive collective-bargaining representative of the Unit.

ANSWER: UPS denies that the relief sought in 1.(a) should be ordered.

(b) engaging in the conduct described in paragraphs 8(a) through 8(d), and 8(f) and 8(g), or in any like or related manner interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

ANSWER: UPS denies that the relief sought in 1.(b) should be ordered.

2. Take the following affirmative action:

(a) Upon request, bargain collectively and in good faith with the Party in Interest as the exclusive collective-bargaining representative of the Unit in regard to wages, hours, and other terms and conditions of employment.

ANSWER: UPS denies that the relief sought in 2.(a) should be ordered.

(b) Make affected unit employees at the Madison Heights facility whole for loss of wages suffered as the result of the unilateral change regarding loader/unloader Unit classification employee wage rates, with interest in accordance with Board policy.

ANSWER: UPS denies that the relief sought in 2.(b) should be ordered.

(c) Post appropriate notices in Respondent's Madison Heights facility.

ANSWER: UPS denies that the relief sought in 2.(c) should be ordered.

The General Counsel further prays for such other relief as may be just and proper to remedy the unfair labor practices herein alleged.

ANSWER: UPS denies that any other relief should be ordered.

FIRST AFFIRMATIVE DEFENSE

The Complaint should be dismissed because it fails to state a claim for which relief may be granted.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

SECOND AFFIRMATIVE DEFENSE

The Complaint should be dismissed because UPS and the TUPSNNC have already bargained and agreed to contractual language that covers the alleged change in the wage rates and increases in dispute.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

THIRD AFFIRMATIVE DEFENSE

The Complaint should be dismissed because the TUPSNNC as well as the Teamster Locals representing the employees referenced in Paragraph 7 to the Complaint clearly and unmistakably waived its right to bargain over the alleged wage rates and increases for newly hired employees that are the subject of the Complaint.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

FOURTH AFFIRMATIVE DEFENSE

As a member of Teamsters Local 243, Charging Party is collaterally estopped from pursuing the issues raised in the Complaint because of a prior arbitration decision involving UPS and Local 243 that recognizes the right of UPS to engage in the conduct alleged to have violated the Act.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

FIFTH AFFIRMATIVE DEFENSE

As a member of Local 243, the doctrine of res judicata prohibits Charging Party from pursuing the same claims as previously adjudicated in a prior arbitration decision involving UPS and Teamsters Local 243.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

SIXTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed with respect to allegations pertaining to the wage rates and increases for newly hired employees outside of Local 243's jurisdiction on the grounds that no unfair labor practice charge has been timely filed as required by Section 10(b) of the Act.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

SEVENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed with respect to allegations pertaining to the wage rates and increases for newly hired employees outside of Local 243's jurisdiction on the grounds that the allegations were never investigated as part of the underlying unfair labor practice charge and, therefore, the administrative process was never exhausted.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

EIGHTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed because the Board lacks the authority to interpret the NMA which is necessarily required to resolve the underlying dispute with respect to whether UPS was justified in issuing wage rates and increases to newly hired employees that differed from that paid to Charging Party.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

NINTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed because Teamsters Local 243 is not the Party of Interest with respect to the Teamster employees referenced in the Complaint who are members of other Teamster Locals in Chicago, Illinois, Minneapolis, Minnesota, and Maumee/Toledo, Ohio.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

TENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed because Teamsters Local 243 is not the only Party of Interest with respect to Charging Party and the employees at the Madison Heights facility with regard to the alleged wage rates and increases in dispute.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

ELEVENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed as it pertains to UPS employees at its Chicago, Illinois facilities as these employees are not covered by the NMA and, therefore, not part of the same defined Unit classification as Charging Party or represented by the same union as Charging Party.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

TWELFTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed as it pertains to UPS employees at its Chicago, Illinois facilities as issues pertaining to recent MRAs were the subject of a final and binding decision by the UPS/Local 705 Grievance Committee.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

THIRTEENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed because the Regional Director wrongfully refused to defer this matter to the grievance process despite all conditions for deferral having been satisfied.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

FOURTEENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed as UPS and Teamsters Local 243 have arbitrated this dispute and the NLRB is required to defer to the final and binding Arbitration Award that was issued.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

FIFTEENTH AFFIRMATIVE DEFENSE

This Complaint must be dismissed because Local 243 had timely notice of the MRA but never requested to bargain with UPS.

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed in its entirety, and that Respondent be granted such other and further relief as may be appropriate.

Respectfully submitted,
UNITED PARCEL SERVICE, INC.

By: /s/ Tony C. Coleman
One of its Attorneys

Tony C. Coleman
Dinsmore & Shohl
101 S. Fifth Street, Suite 2500
Louisville, KY 40202
Phone: (502) 540-2367
Fax: (502) 585-2207
E-mail: tony.coleman@dinsmore.com

John A. Klages
Quarles & Brady LLP
300 North LaSalle Street, Suite 4000
Chicago, IL 60654
Phone: (312) 715-5060
Fax: (312) 715-5155
E-mail: john.klages@quarles.com

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on the 21st day of December, 2021, a copy of the foregoing Answer and Affirmative Defenses of United Parcel Service, Inc., was filed electronically using the National Labor Relation Board's electronic filing system. Parties may access this filing through the Agency's system.

The undersigned also represents that he caused to be served a true and correct copy of the foregoing document via U.S. mail upon:

Matthew Scott Herrmann
25575 Briar Drive
Oak Park, MI 48237

Jim Cianciolo, Principal Officer
Teamsters Local 243
Party in Interest
39420 Schoolcraft Rd
Plymouth Township, MI 48170

Elizabeth Kerwin
Regional Director
National Labor Relations Board
Region Seven
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, MI 48226

/s/ Tony C. Coleman

Tony C. Coleman

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 9**

In the Matter of:)	
)	
United Parcel Service, Inc.)	Case No. 07-CA-279644
)	
and)	
)	
Matthew Scott Herrmann)	
)	
and)	
)	
 Local 243, International Brotherhood of Teamsters (IBT)		

MOTION TO RESCHEDULE TRIAL

Comes the Respondent United Parcel Service, Inc. (“UPS”), pursuant to Section 102.16(a) of the Rules and Regulations of the National Labor Relations Board, and respectfully files this Motion requesting rescheduling of the hearing in the above matter. By Notice received on December 7, 2021, the parties were notified that this case is scheduled to be heard beginning on February 9, 2022 and, “on consecutive days thereafter until concluded.” On December 16, 2021, undersigned counsel filed a Notice of Appearance in this matter. Based on current information, this matter will require at least five (5) full days of hearing. Further, based upon the allegations in the Complaint, UPS currently expects that there will be between eight (8) to ten (10) witnesses who will need to be prepared to testify in this matter.

Between January 1 and February 9, 2022, undersigned counsel has four (4) scheduled Union labor arbitration matters. Specifically, arbitration cases are currently scheduled on January 13th; 20th and 21st; 25th; and 27th. The undersigned also has another Board hearing currently scheduled for January 10, 2022 (Case No. 09-CA-280599) although UPS is hopeful that the case will resolve prior to the hearing. Finally, undersigned counsel is scheduled to attend and represent UPS at a joint trustee health fund meeting on February 9, 2022. For all of the above reasons, the undersigned counsel does not believe that there is sufficient time to adequately prepare for a five (5) day hearing prior to February 9, 2022.

Further, pursuant to 29 C.F.R. 16(a) the undersigned has spoken with Charging Party, Matthew Herrmann, and Kyle McCoy, counsel for Teamsters Local 243. Both have consented to the requested postponement with a proposed new scheduled hearing date of March 14, 2022, continuing on consecutive days thereafter until completed.

Further, unrelated to this request, but in the interest of full disclosure and transparency, UPS currently plans to file a Motion for Summary Judgment with the Board, pursuant to Section 102.24. This Motion will be filed more than twenty-eight (28) days before the current February 9, 2022 hearing date. The filing of the Motion is not the reason for this request.

The request is not being made for the purposes of delay or obstruction but rather to allow UPS a reasonable period of time to properly prepare for what will be a lengthy and complicated hearing.

Respectfully submitted,

/s/ 

Tony C. Coleman
Dinsmore & Shohl
101 S. Fifth Street, Suite 2500
Louisville, KY 40202
Phone: (502) 540-2367
Fax: (502) 585-2207
E-mail: tony.coleman@dinsmore.com

and

John A. Klages
Quarles & Brady LLP
300 North LaSalle Street, Suite 4000
Chicago, IL 60654
Phone: (312) 715-5060
Fax: (312) 715-5155
E-mail: john.klages@quarles.com
*Counsel for United Parcel Service,
Inc.*

CERTIFICATE OF SERVICE

It is hereby certified that the original and three (3) copies of the foregoing were served this December 27, 2021 by electronic filing and UPS overnight mail to:

Elizabeth Kerwin
Regional Director
National Labor Relations Board,
Region 7
477 Michigan Avenue, Room 05-200
Detroit, MI 48226

One (1) copy to the Charging Party, on the date described above, served by email and U.S. Mail postage prepaid, upon:

Matthew Herrmann
25575 Briar Drive
Oak Park, MI 48237

And one (1) copy was, on the date described above, served by email and U.S. Mail postage prepaid, upon:

Kyle McCoy
Soldon McCoy
5502 Upland Trail
Middleton WI 53562
Attorneys for Teamsters Local 243

/s/ Tony C. Coleman
Tony C. Coleman

STATE OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Tony Coleman, this 27th day of December, 2021.

My commission expires: 2-22-25

Angela Rose Myers
NOTARY PUBLIC
STATE AT LARGE, KENTUCKY
Notary No.: KYNP 24128

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 7**

UNITED PARCEL SERVICE, INC.

and

Case 07-CA-279644

MATTHEW SCOTT HERRMANN, an Individual

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from February 9, 2022 at 10:00 a.m. to **March 14, 2022** at 10:00 a.m., at Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 05-200, Detroit, Michigan, which will be conducted via videoconferencing using the Zoom for Government platform. The hearing will continue on consecutive days until concluded.

Dated: December 30, 2021

A handwritten signature in dark ink, reading "Elizabeth Kerwin" with a large, sweeping flourish at the end.

Elizabeth Kerwin, Regional Director
National Labor Relations Board, Region 07
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, MI 48226